



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/829,573  | 04/10/2001  | Ryuichiro Hisamatsu  | 450100-03152        | 7755             |
| 20999   | 7590        | 07/24/2006           | EXAMINER            |                  |
| FROMMER LAWRENCE & HAUG<br>745 FIFTH AVENUE- 10TH FL.<br>NEW YORK, NY 10151 |             |                      | ELISCA, PIERRE E    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3621                |                  |

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/829,573

Applicant(s)

HISAMATSU ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This office action is in response to's response filed on 05/08/2006.
2. Claims 1-22 are pending.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claims 1-22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) in view of Downs et al (U.S. Pat. No. 6,226,618).

As per claims 1-22 Kleiman substantially discloses a music distribution to local electronic jukeboxes see., abstract, lines 1 and 2 (which is readable as Applicant's claimed invention wherein said a business management), comprising:

Obtaining information about earnings and expenses based on expenses incurred by content providers supplying users wit recording devices compatible with contents offered by the providers, on content subscription fees paid by said users for receiving said content, and on earnings derived from services and/or advertisements included in said contents, determining said services and/or advertisements to be provided to said users based on said users viewing history data, controlling fees to be paid for said services and/or advertisements in accordance with said information about said earnings and expenses thus obtained, judging whether or a share of the earnings possibly may be paid back, and initiating a process to decide on items applicable to pay

back when that pay back is judges possible (see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, specifically, figs 1, 8A, and 9).

Kleiman fails to disclose the limitation wherein said “obtaining information about earnings (or balance) and expenses, and controlling fee to be paid for said services”. Downs discloses an electronic content delivery system in which a clearinghouse uses a pricing (or fee) information to track the balances (or earnings) of the electronic digital content (see., abstract, col 45, lines 53-64). It would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the teachings of Kleiman and Looney by including the limitation detailed above as taught by Looney because this would provide the music distribution of Kleiman and Looney with the advantage of maintaining account balances for the electronic digital store (s).

### ***Allowable Subject Matter***

5. Claims 6, 12, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **RESPONSE TO ARGUMENTS**

6. Applicant's arguments filed on 05/08/2006 have been fully considered but they are moot in view of new ground (s) of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pierre Eddy Elisca

**Primary Patent Examiner**

**July 12, 2006**